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GENERAL AVIATION STANDARDS ACT OF 1989

AUGUST 4, 1989.—Ordered to be printed

Mr. ANDERSON, from the Committee on Public Works and Transportation, submitted the following

REPORT

[To accompany H.R. 1307 which on March 8, 1989, was referred jointly to the Committee on Public Works and Transportation, the Committee on the Judiciary, and the Committee on Energy and Commerce]

[Including cost estimate of the Congressional Budget Office]

The Committee on Public Works and Transportation, to whom was referred the bill (H.R. 1307) to amend the Federal Aviation Act of 1958 relating to general aviation accidents, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The reported bill establishes uniform Federal standards for the courts to use in deciding how liability will be determined in cases involving accidents of general aviation aircraft. The uniform standards in the reported bill are designed to place limits on excessive liability awards while at the same time affording fair treatment to persons injured in general aviation aircraft accidents.

The reported bill has been developed in response to a serious decline in the manufacture and sale of general aviation aircraft by United States companies. An important cause of this decline has been the tremendous increase in the industry's liability insurance costs.

The decline in our Nation's general aviation aircraft manufacturing industry is well-established. General aviation aircraft sales by United States manufacturers have declined from over almost 18,000 units in 1978 to only 1,143 units in 1988. Employment in the industry is down by approximately 65 percent during this period.

This decline in general aviation aircraft sales has been accompanied by massive increases in the industry's liability costs. These

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costs have increased even though the general aviation safety record has been improving. The amount paid by general aviation manufacturers for liability awards and for settlement and defense costs increased from $24 million in 1977 to more than $200 million in 1987.

The liability is a serious threat to the strong position of United States manufacturers in our domestic market. Foreign manufacturers are frequently able to take advantage of the less costly liability systems in their own countries. Foreign manufacturers also have much less of a problem than U.S. manufacturers from liability expense for aircraft previously sold in the United States. Foreign manufacturers have cost advantages in competing in the U.S. market and with these advantages, foreign manufacturers have made substantial inroads in the U.S. market for the more expensive general aviation aircraft. If the liability situation does not improve, foreign manufacturers are likely to increase their sales in the lower end of the market, single engine piston aircraft, where U.S. manufacturers have achieved 90 percent dominance.

The need for reform in general aviation product liability standards was well expressed by Secretary of Transportation Skinner, who stated in a May 23, 1989, letter to Chairman Anderson:

> The U.S. aviation industry is one of the bulwarks of our economy, and its manufacturing sector is the world's leader.
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> General aviation's manufacturing industry does operate at such a disadvantage today. Because of its very success in the past, the U.S. general aviation manufacturers confront a huge liability exposure created by the very large number of long lived American built aircraft in the world's active operating inventory. Foreign manufacturers of general aviation aircraft face no such exposure and also enjoy much more favorable and less costly liability regimes in their own countries.
>
> The U.S. general aviation manufacturing industry needs and deserves the modest relief offered by H.R. 1307, the "General Aviation Standards Act of 1989". The compelling justification for this legislation is a decade or more of mounting product liability claims against and losses by general aviation aircraft manufacturers. These product liability costs have risen to the point where they now constitute the largest single factor in the price of a new single engine airplane. If general aviation were unsafe or even tending in that direction, I could see some merit in this outcome. But the fact is that general aviation has never been safer than it is today. Moreover, the long-term trend in general aviation safety has been pronounced improvement for nearly half a century. In looking at the trends in general aviation product liability claims and settlements, I must conclude that the tort liability system, as it works today in the field of general aviation, is inequitable and unfair.

As has been indicated, the reported bill establishes uniform Federal standards for general aviation accident cases. These standards would not place a cap on the damages which could be recovered. However, the uniform Federal standards would modify rules of liability which are applied in some States and produce excessive damage awards. The primary features of the reported bill are as follows:

(1) Many States now apply a doctrine of joint and several liability under which a defendant who bears some responsibility for an accident is held liable for all the damages incurred, subject to that defendant's right to seek indemnification from other defendants who are also found responsible. Under this doctrine, claimants can sue defendants, such as manufacturers, who are financially responsible, in preference to suing other defendants who may be primarily responsible for the accidents, but have insufficient assets to pay damages.

The Committee considers it unfair to hold a defendant liable for damages caused by other persons, over whom the defendant has no control. In addition, to the extent that joint liability results in some defendants being relieved of liability, the concept of joint liability undermines the existing incentives which product liability law creates for safe operations.

The reported bill establishes a doctrine of comparative responsibility. Under comparative responsibility, a defendant is only responsible for a percentage of the damages equivalent to the percentage of that defendant's responsibility for the accident. As an exception to this standard, the reported bill provides that a general aviation airframe manufacturer is jointly liable for damages caused by a system which the airframe manufacturer installed on the aircraft, and that the manufacturer of a component of an aircraft is jointly liable for damages caused by defective subassemblies of the component. In these cases the Committee believes that the manufacturer exercises sufficient control over the selection of component systems and subassemblies. Therefore, it is appropriate to make the manufacturer jointly liable for damages caused by these components.

Under the bill, any percentage of fault attributed to the claimant will result in a proportinate reduction of the overall damages the claimant can recover. Under this provision, a claimant can recover some damages even if the claimant bears some responsibility for the accident.

(2) Currently, there is a variation among the States as to how long a manufacturer remains liable for defects in an aircraft. The Committee believes that there should be some cut-off of a manufacturer's responsibility.

As an aircraft gets older, it is more likely to have had a number of owners, and gone through a number of modifications and major maintenance procedures. This makes it increasingly difficult to determine whether the manufacturer or some other person who used or repaired the aircraft is primarily responsible for a defect. In addition, it is not reasonable to expect a product to be designed to operate safely forever. Many States have recognized the need for limits by adopting statutes of repose, ending a manufacturer's liability after a specified period.

The reported bill does the same and provides that the manufacturer is not liable for detects discovered more than 12 years after the first sale of the aircraft. This limitation does not apply in cases where the manufacturer has given an express warranty for a longer period. Additionally, this provision does not limit the manufacturer's duty to provide warnings to aircraft owners when a defect is discovered after a 12-year period.

(3) An important question in product liability cases is the extent of a manufacturer's responsibility for using the latest available technology to produce a safe product. The reported bill provides that a general aviation aircraft manufacturer has a duty to incorporate safety features which are reasonably feasible according to the state of the art in engineering at the time the aircraft is manufactured. The Committee believes that it is appropriate to base liability on scientific knowledge at the time of production rather than at the time of the trial. At the same time, this provision does not limit the manufacturer's duty to warn of a dangerous condition arising after the date of production.

(4) The reported bill establishes a general rule of liability based on negligence. The bill further establishes a standard of strict liability for general aviation manufacturers. Under this standard, manufacturers are liable if they produce an aircraft which is "in a defective condition unreasonably dangerous for its intended purpose." The bill also provides that manufacturers are liable if they fail to provide reasonable warnings about dangerous features of the product (including dangerous features first learned of after the product was manufactured), and that manufacturers are liable if an accident is caused by the failure of an aircraft to comply with an express warranty by the manufacturer.

The bill further provides that a manufacturer is not liable if the manufacturer can prove that a defective condition could have been corrected by compliance with an airworthiness directive issued by the Federal Aviation Administration (FAA). Aircraft owners are legally responsible for complying with FAA Airworthiness Directives.

In addition, the bill provides that evidence of an aircraft's design in accordance with standards established by the Federal Aviation Administration is admissible on the issue of whether an aircraft is unreasonably dangerous. Compliance with FAA standards is a factor to be considered, but not an absolute defense.

In sum, the Committee believes that the standards established by the reported bill will curb excessive liability awards while at the same time affording fair treatment to persons injured in aircraft accidents. It is significant that the bill is supported not only by general aviation aircraft manufacturers but also by groups representing the purchasers and users of general aviation aircraft, such as the Aircraft Owners and Pilots Association (AOPA) and the National Business Aircraft Association (NBAA). The support of these groups indicates that the reported bill strikes a reasonable balance between the sometimes conflicting objectives of keeping the prices of general aviation aircraft at an affordable level, and awarding fair compensation to persons injured in general aviation accidents.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

The short title of the Act is the "General Aviation Standards Act of 1989."

Section 2. Findings and Purposes

The findings state that: Air Transportation is an important component of the Nation's integrated transportation system; the Federal government has a direct interest in the general aviation accident liability system because the Federal government has established a comprehensive system of regulating general aviation encompassing certification of aircraft design and construction, standards for required maintenance, licensing those who perform maintenance, standards for training and licensing pilots, regulation of air traffic, accident investigation, and other functions to assure a safe air transportation system; this Federal system is the exclusive legal authority for regulating aviation operations and safety; increasing liability costs and lack of available insurance are forcing manufacturers of aircraft and component parts to limit or cease production of some aircraft models; the accident rate for general aviation has declined yet damages sought in general aviation liability claims against manufacturers continue to rise, bearing no relationship to the quality of the aircraft manufactured and in use; it is in the national interest to reduce unnecessary costs related to general aviation accident liability claims while ensuring efficient compensation for injured parties; and Federal reform of the general aviation accident liability system will result in the maintenance of airworthy aircraft and a more rational general aviation accident liability system.

The purpose of this Act is to establish rules of Federal law for determining personal injury and property damage arising out of general aviation accidents.

Section 3. Amendment of Federal Aviation Act of 1958

Section 3(a). Title VII of the Federal Aviation Act of 1958 (relating to aviation accident investigation) is amended by adding the following new subtitle:

"Subtitle B—General Aviation Accidents"

Section 721. Applicability

The Act is applicable to any action for harm arising out of a general aviation accident against a general aviation manufacturer, the owner or operator of a general aviation aircraft, anyone who repairs, maintains or supports a general aviation aircraft or any other person or government entity. The Act does not apply to actions against manufacturers, owners or operators or persons who repair or support aircraft that are not general aviation aircraft.

Section 722. Liability for General Aviation Accidents

This section establishes uniform rules of liability and defenses and apportions the burden of proof.

Section 722(a). Liability for Negligence. This section provides that a person harmed by another party's negligence, in a general aviation accident, may bring an action and recover damages from that party, if the negligence of that party is a proximate cause of the claimant's harm. Harm, which is a defined term includes bodily injury and property damage.

Section 722(b). Product Liability of General Aviation Manufacturers.

Section 722(b)(1). This subsection provides a special rule of liability (strict liability) for manufacturing and design defect claims brought against general aviation manufacturers. A manufacturer is liable for harm if, when the product left the manufacturer's control, it was in a defective condition unreasonably dangerous for its intended purpose. The determination of what is a defective condition must be judged against the engineering and manufacturing practices that were reasonably feasible in light of existent technology on the date the product left the control of the manufacturer. The claimant must also show that the defective condition caused his harm and that he was using the general aviation aircraft for the purposes and in the manner for which it was designed and manufactured.

Section 722(b)(2). This subsection provides that a general aviation manufacturer is liable for injuries arising out of a general aviation accident for failing to provide appropriate warnings or instructions about a danger connected with its product that he knew or should have known about it. A manufacturer also has a duty to provide warnings regarding its products after their distribution or sale.

Section 722(b)(3). A manufacturer is also liable for injuries arising out of a general aviation accident caused by the breach of his express warranty.

Section 722(c). This subsection provides a defense to a manufacturer for strict liability actions governed by Section 722(b) if the manufacturer proves, by a proponderance of the evidence, that the defective condition could have been corrected by compliance with an airworthiness directive issued by the FAA that was issued a reasonable period before the accident and after the product left control of the manufacturer.

Section 722(d). This subsection provides that evidence of compliance with standards, conditions, or specifications established adopted, or approved by the FAA, shall be admissible with regard to whether the product was defective and unreasonably dangerous for its intended purpose.

Section 723. Comparative Responsibility

This section requires that the principles of comparative responsibility govern actions for damages. The trier of fact (in most cases, the jury) will determine comparative responsibility by indicating the percentage of total responsibility for the claimant's harm attributable to the claimant's conduct, each defendant, each third-party defendant, and any other person not a party to the action. Each person's liability is based on, and limited to, that person's proportionate share of responsibility for the damages. In addition to his individual liability, an aircraft manufacturer is also jointly liable for harm caused by a defective system, component, subassem-

bly, or other part that it did not manufacture but that it incorporated in its aircraft. A general aviation manufacturer who is jointly liable with another person has a right of indemnity or contribution against that person.

Section 724. Time Limitation on Liability

This section establishes a time limitation on liability for harm which occurs more than 12 years from the date of the delivery of the aircraft. For a replacement part of an aircraft or a part which was added to the aircraft, the time limit is 12 years from the date of the replacement or addition. This time limit on liability does not apply to an express written warranty that the product was suitable for a period of more than 12 years. In addition, this time limit on liability does not alter the continuing duty to provide aircraft owners and repair facilities with additional or modified warnings or instructions regarding the use or maintenance of an aircraft.

Section 725. Subsequent Remedial Measures

This section provides that evidence of any repairs or changes made to the product after an accident which, if made before the accident, would have made the accident less likely to occur, is not admissible to prove liability. Such evidence is admissible to the extent permitted under Rule 407 of the Federal Rules of Evidence.

Section 726. Admissibility of Certain Evidence

This section provides that evidence of tax liability attributable to past or future income alleged to have been lost is admissible.

Section 727. Punitive Damages

This section provides the standard for recovery of punitive damages. Under this section, punitive damages may be awarded in an action only if the claimant establishes by clear and convincing evidence that the harm suffered was the direct result of conduct manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by the use of a general aviation product. Evidence regarding the financial worth or profits of a defendant, relating solely to a claimant for punitive damages, is not admissible unless the claimant establishes that there is a prima facie case for an award of punitive damages.

Section 728. Time Limitation on Bringing Certain Actions

This section provides a two year statute of limitations for general aviation accident claims and the summons and complaint must be served upon a defendant within 120 days after the filing of the complaint. However, the claimant may show why such service could not be made within the 120-day period.

Section 729. Jurisdiction and Venue

This section provides that the United States District Courts shall, concurrently with State courts, have original jurisdiction, without regard to the amount in controversy, in all civil actions for damages arising out of a general aviation accident and in all actions for indemnity or contribution authorized in such actions. In addition, this section authorizes any defendant to remove a civil action from

a State court to the appropriate district court without any other party's consent. This section also provides that in the case of removal, the district court has the additional jurisdiction to determine all substantially similar state claims arising out of the same general aviation accident.

Section 729. This section establishes the places where a civil action for damages arising out of a general aviation accident may be brought as the district where the accident occurred, or the district where a plaintiff or defendant resides. This section also provides that a district court may transfer a general aviation accident action to any other district for the convenience of the parties and witnesses, in the interest of justice.

Section 730. Preemption

This section provides that the rules of liability set forth in this bill supersede State laws covering the same subject matter and provides that this bill does not supersede, waive or affect any defense of sovereign immunity asserted by the United States or any State. Furthermore, this bill does not affect the provisions of any applicable worker's compensation law.

Section 731. Sanctions

This section specifically invokes sanctions for violation of Rule 11 of the Federal Rules of Civil Procedure and directs that Rule 11 be strictly enforced. Rule 11 provides sanctions against a party, his attorney or both for filing frivolous or legally or factually unfounded complaints or motions. This provision applies to both plaintiffs and defendants.

Section 732. Definitions

This section establishes definitions for various terms which are stated below, as in the bill.

The term "claimant" means any person who brings an action subject to this subtitle, and any person on whose behalf such action is brought, including (A) the claimant's decedant, and (B) the claimant's parent or guardian, if the action is brought through or on behalf of a minor or incompetent.

The term "general aviation accident" means any accident which arises out of the operation of any general aviation aircraft and which results harm.

The term "general aviation aircraft" means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which is not, at the time of the accident, engaged in scheduled passenger carrying operations as defined in regulations issued under this Act.

The term "general aviation manufacturer" means: (A) the builder or manufacturer of the airframe of a general aviation aircraft; (B) the manufacturer of the engine of a general aviation aircraft; and (C) the manufacturer of any system, component, subassembly, or other part of a general aviation aircraft.

The term "harm" means (A) property damage or bodily injury sustained by a person, (B) death resulting from such bodily injury,

(C) pain and suffering which is caused by such bodily injury, and (D) emotional harm (including bereavement and loss of affection, care, or society) which is caused by such bodily injury.

The term "product" means a general aviation aircraft and any system, component, subassembly, or other part of a general aviation aircraft.

The term "property damage" means physical injury to tangible property, including loss of use of tangible property.

Section 3(b). Technical Amendments. This section changes the Federal Aviation Act of 1958 by providing a new title designation for Title VII of the Act and a new table of contents.

Section 4. Severability

This section provides that if anything in this Act is held invalid, the remainer shall not be affected by that invalidation.

Section 5. Effective Date

Section 5(a). This Act applied to actions filed on or after its date of enactment.

Section 5(b). Provides that, for actions filed before or within 180 days after enactment, liberal leave will be given to amend any pleading, motion, or other matter to conform to the amendments made by this Act. This provision is intended to assure that attorneys will be given the opportunity to amend complaints, motions, etc. to conform to the substantive provisions of law established under this Act.

Section 6. Financial Responsibility

Directs the Secretary of Transportation to conduct a study to determine whether persons awarded damages from general aviation aircraft owners, operators and mechanics are unable to collect any or all damages. The study with recommendations shall be completed in one year.

Committee Action and Vote

With respect to clause 2(l)(2) (a) and (b) of the Rules of the House of Representatives, the Committee, with a majority present favorably reported H.R. 1307 by a voice vote on July 20, 1989.

Oversight Findings and Recommendations

With respect to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that no separate hearings were held on the subject matter of the legislation by the Subcommittee on Investigations and Oversight.

With respect to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has not received a report from the Committee on Government Operations pertaining to the subject matter.

Congressional Budget Act Requirements

With respect to clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, and in compliance with section 308(a) of

H.R. 1307 does not provide any new budget authority or new or increased tax expenditures.

With respect to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee has received the following report from the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 25, 1989.

Hon. GLENN M. ANDERSON,
Chairman, Committee on Public Works and Transportation,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1307, the General Aviation Standards Act of 1989, as ordered reported by the House Committee on Public Works and Transportation, July 20, 1989. CBO estimates that enactment of the bill would result in no significant cost to the federal government and in no cost to state or local governments.

H.R. 1307 would establish federal standards for determining liability for injuries or property damage arising out of general aviation accidents. Specifically, the bill would establish standards applicable to the liability of general aviation manufacturers as well as defenses available to them.

Both state and federal courts would have jurisdiction over general aviation accident liability cases under this act, but actions brought in a state court could not be removed to a federal district court by any defendant without the consent of any other party. The bill would preempt state law to the extent that it establishes a rule of law or procedure applicable to a claim, but would not affect sovereign immunity defenses or workers' compensation law.

H.R. 1307 would also require the Secretary of Transportation to conduct a study to determine the extent to which those persons awarded damages as a result of general aviation accidents are unable to collect such damages, and the amount of such uncollectible damages. CBO estimates that this study requirement would not result in significant costs to the federal government.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mitchell Rosenfeld, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISHAUER,
Director.

INFLATIONARY IMPACT ANALYSIS

With respect to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee reports that there should be no inflationary impact on prices and costs in the operation of the national economy by enactment of H.R. 1307.

COST ESTIMATE OF LEGISLATION

With respect to clause 7(A)(1) of rule XIII of the Rules of the House of Representatives, the Committee report that H.R. 1307 au-

thorizes no funding and that there should be no costs incurred by enactment of the bill.

With respect to clause 7(A)(2) of rule XIII of the Rules of the House of Representatives, the Committee reports that no cost estimate of H.R. 1307 was submitted to the Committee by a government agency.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FEDERAL AVIATION ACT OF 1958

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[TITLE VII–AIRCRAFT ACCIDENTS]

TITLE VII—AIRCRAFT ACCIDENTS

Subtitle A—Investigations

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Subtitle B—General Aviation Accidents

SEC. 721. APPLICABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this subtitle shall apply to any action for damages for harm arising out of a general aviation accident brought against a general aviation manufacturer, the owner or operator of a general aviation aircraft, a person who repairs, maintains, or provides any other support for a general aviation aircraft, or any other person or governmental entity.

(b) EXCEPTION.—The provisions of this subtitle shall not apply with respect to an action brought by a person against a manufacturer, owner, or operator of an aircraft that is not a general aviation aircrat or any person who repairs, maintains, or provides any other support for an aircraft that is not a general aviation aircraft.

SEC. 722. LIABILITY FOR GENERAL AVIATION ACCIDENTS.

(a) LIABILITY FOR NEGLIGENCE.—Any person claiming damages for harm arising out of a general aviation accident may bring an action for damages against a party and may recover damages from that party if that party was negligent and such negligence is a proximate cause of the claimant's harm.

(b) PRODUCT LIABILITY OF GENERAL AVIATION MANUFACTURERS.—

(1) ACTIONS FOR DEFECTIVE PRODUCTS.—Any person claiming damages for harm arising out of a general aviation accident may bring an action for damages against a general aviation manufacturer if—

(A) the product, when it left the control of the manufacturer, was in a defective condition unreasonably dangerous for its intended purpose, according to engineering and manufacturing practices which were reasonably feasible;

(B) the defective condition is a proximate cause of the claimant's harm; and

(C) the general aviation aircraft was being used at the time of the accident for a purpose and in a manner for which it was designed and manufactured.

(2) ACTIONS FOR FAILURE TO PROVIDE ADEQUATE WARNINGS OR INSTRUCTIONS.—Any person claiming damages for harm arising out of a general aviation accident may bring an action for damages against a general aviation manufacturer of a product and may recover damages from that general aviation manufacturer if—

(A) at the time the product left the control of the manufacturer, the manufacturer—

(i) knew, or in the exercise of reasonable care should have known, about a danger connected with the product that caused the claimant's harm; and

(ii) failed to provide the warnings or instructions that a person exercising reasonable care would have provided with respect to the danger which caused the harm alleged by the claimant, unless those warnings or instructions, if provided, would not have materially affected the conduct of the product user; or

(B) after the product left the control of the general aviation manufacturer, the manufacturer—

(i) knew, or in the exercise of reasonable care should have known, about a danger connected with the product that caused the claimant's harm; and

(ii) failed to take reasonable steps to provide warnings or instructions, after the manufacture of the product, which would have been provided by a person exercising reasonable care, unless those warnings or instructions, if provided, would not have materially affected the conduct of the product user;

and the failure to provide warnings or instructions described in subparagraph (A) or (B) is a proximate cause of the claimant's harm.

(3) ACTIONS FOR FAILURE TO CONFORM TO EXPRESS WARRANTY.—Any person claiming damages for harm arising out of a general aviation accident may bring an action for damages against a general aviation manufacturer of a product and may recover damages from that general aviation manufacturer if—

(A) the manufacturer made an express warranty with respect to the product;

(B) the warranty relates to that aspect of the product which caused the harm;

(C) the product failed to conform to the warranty; and

(D) the failure of the product to conform to the warranty is a proximate cause of the claimant's harm.

(c) BURDEN OF PROOF.—In an action governed by subsection (b) of this section, a general aviation manufacturer shall not be liable if such manufacturer proves, by a preponderance of the evidence, that—

(1) the defective condition could have been corrected by compliance with action described in an airworthiness directive issued by the Administrator; and

(2) such directive was issued at a reasonable time before the date of the accident and after the product left the control of the general aviation manufacturer.

(d) ADMISSIBILITY OF COMPLIANCE WITH STANDARDS.—In any action government by subsection (b) of this section, evidence of compliance with standards, conditions, or specifications established, adopted, or approved by the Federal Aviation Administration shall be admissible with regard to whether the product was defective and unreasonably dangerous for its intended purpose.

SEC. 723. COMPARATIVE RESPONSIBILITY.

(a) ACTIONS GOVERNED BY COMPARATIVE RESPONSIBILITY.—All actions governed by this subtitle shall be governed by the principles of comparative responsibility. Comparative responsibility attributed to the claimant's conduct shall not bar recovery in such an action, but shall reduce any damages awarded to the claimant in an amount proportionate to the responsibility of the claimant. The trier of fact shall determine comparative responsibility by making findings indicating the percentage of total responsibility for the claimant's harm attributable to the claimant, each defendant, each third-party defendant, and any other person not a party to the action.

(b) DEFENDANTS SEVERALLY LIABLE.—Except as provided in subsection (c), a defendant is severally but not jointly liable in an action governed by this subtitle, and the liability of any defendant in any such action shall be determined on the basis of that defendant's proportionate share of responsibility for the claimant's damages.

(c) LIABILITY OF CERTAIN MANUFACTURERS.—In an action governed by this subtitle—

(1) a general aviation manufacturer who is the builder or manufacturer of the airframe of the general aviation aircraft involved is jointly and severally liable for damages for harm caused by a defective system, component, subassembly, or other part of that aircraft that the manufacturer installed or certified as part of the original type design for that aircraft; and

(2) a general aviation manufacturer who is the manufacturer of a system or component of the general aviation aircraft involved is jointly and severally liable for damages for harm caused by a defective subassembly or other part of that system or component.

(d) RIGHT OF INDEMNITY AND CONTRIBUTION.— A general aviation manufacturer and any other person jointly liable under subsection (c) shall have the right to bring an action for indemnity or contribution against any person with whom they are jointly liable under subsection (c).

SEC. 724. TIME LIMITATION ON LIABILITY.

(a) IN GENERAL.—No civil action for damages for harm arising out of a general aviation accident which is brought against a general aviation manufacturer may be brought for harm which is alleged to have been caused by an aircraft or a system, component, subassembly, or other part of an aircraft and which occurs more than—

(1) 12 years from—

(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer, or

(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such an aircraft; or

(2) with respect to any system, component, subassembly, or other part which replaced another product in, or which was added to, the aircraft, and which is alleged to have caused the claimant's harm, 12 years from the date of the replacement or addition.

(b) EXCEPTION IN CASE OF EXPRESS WARRANTY.—Subsection (a) does not apply in the case of harm to a claimant which occurs after the period set forth in subsection (a) if the general aviation manufacturer or the seller of the product that caused the claimant's harm gave an express warranty that the product would be suitable, for the purpose for which it was intended, for a longer period of time.

(c) DUTY TO PROVIDE ADDITIONAL WARNINGS NOT AFFECTED.—Nothing in this section shall be construed to affect a person's duty to provide, after the sale or lease of an aircraft, to aircraft owners, and to repair facilities to which a license or certificate to perform repairs has been issued by the Administrator, additional or modified warnings or instructions regarding the use or maintenance of that aircraft or any system, component, subassembly, or other part of that aircraft.

SEC. 725. SUBSEQUENT REMEDIAL MEASURES.

In an action governed by this subtitle, evidence of any measure taken after an event which, if taken previously, would have made the event less likely to occur is not admissible to prove liability. Such evidence is admissible to the extent permitted under Rule 407 of the Federal Rules of Evidence.

SEC. 726. ADMISSIBILITY OF CERTAIN EVIDENCE.

In an action governed by this subtitle, evidence of Federal, State, or local income tax liability or any social security or other payroll tax liability attributable to past or future earnings, support, or profits and the present value of future earnings, support, or profits alleged to have been lost or diminished because of harm arising out of a general aviation accident, is admissible regarding proof of the claimant's damages.

SEC. 727. PUNITIVE DAMAGES.

(a) BASIS FOR RECOVERY.—Punitive damages may be awarded in an action governed by this subtitle only if the claimant establishes by clear and convincing evidence that the harm suffered was the direct result of conduct manifesting a conscious and flagrant indifference to the safety of those persons who might be harmed by use of the general aviation aircraft involved.

(b) ADMISSIBILITY OF EVIDENCE ON CLAIM FOR PUNITIVE DAMAGES.—Evidence regarding the financial worth of a defendant or the defendant's profits or any other financial evidence relating soley to a claim for punitive damges under this subtitle is not admissible unless the claimant establishes, before any such evidence is offered, that the claimant can present evidence that will establish prima facie proof of conduct manifesting a conscious and flagrant indifference to the safety of those persons who might be harmed by use of the general aviation aircraft involved.

SEC. 728. TIME LIMITATION ON BRINGING CERTAIN ACTIONS.

An action governed by this subtitle shall be barred, notwithstanding any State law, unless—

(1) The complaint is filed within 2 years after the date on which the accident occurred which caused the claimant's harm; and

(2) The summons and complaint are properly served upon the defendant within 120 days after the filing of the complaint,

unless the party on whose behalf such service is required can show good cause why such service was not made within that 120-day period.

Paragraph (2) shall not apply to service of process in a foreign country pursuant to Rule 4(i) of the Federal Rules of Civil Procedure or any similar State law.

SEC. 729. JURISDICTION AND VENUE.

(a) IN GENERAL.—The district courts of the United States, concurrently with the State courts, shall have original jurisdiction, without regard to the amount in controversy, in all actions governed by section 722 and in all actions for indemnity or contribution described in section 723(d) of this subtitle.

(b) REMOVAL OF STATE ACTIONS.—A civil action which is brought in a State court may be removed to the district court of the United States for the district embracing the place where the action is pending, without the consent of any other party and without regard to the amount in controversy, by any defendant against whom a claim in the action is asserted for damages for harm arising out of a general aviation accident.

(c) DETERMINATION OF PENDANT CLAIMS UNDER STATE LAW.—In any case commenced in or removed to a district court under subsection (a) or (b), the court shall have jurisdiction to determine all claims under State law that arise out of the same general aviation accident if a substantial question of fact is common to the claims under State law and to the Federal claim, defense, or counterclaim.

(d) VENUE.—

(1) IN GENERAL.—A civil action in which the district courts have jurisdiction under subsection (a) may be brought only in a district in which—

(A) the accident giving rise to the claim occurred; or

(B) any plaintiff or defendant resides.

(2) TRANSFER OF ACTIONS.—In an action pending in a district court under paragraph (1), a district court may, or motion of any party or its own motion, transfer the action to any other district for the convenience of parties and witnesses in the interest of justice.

(3) RESIDENCE DEFINED.—For purposes of this subsection, a corporation shall be considered to be a resident of any State in which it is incorporated or licensed to do business or is doing business.

SEC. 730. PREEMPTION.

(a) IN GENERAL.—This subtitle supersedes any State law regarding recovery, under any legal theory, of damages for harm arising out of a general aviation accident, to the extent that this subtitle establishes a rule of law or procedure applicable to the claim.

(b) NO EFFECT ON SOVEREIGN IMMUNITY.—Nothing in this subtitle shall be construed to supersede or to waive or affect any defense of sovereign immunity asserted by the United States or any State.

(c) WORKERS' COMPENSATION LAWS.—No right of action for damages for harm exists under this subtitle if that right would be inconsistent with any applicable workers' compensation law.

SEC. 731. SANCTIONS.

It is the intent of Congress that, with respect to civil actions governed by this subtitle, the sanctions for violation of Rule 11 of the Federal Rules of Civil Procedure, including orders to pay to the other party or parties the amount of their reasonable expenses, including a reasonable attorney's fee, be strictly enforced.

SEC. 732. DEFINITIONS.

As used in this subtitle—

(1) the term "claimant" means any person who brings an action subject to this subtitle, and any person on whose behalf such an action is brought, including—

(A) the claimant's decedent, and

(B) the claimant's parent or guardian, if the action is brought through or on behalf of a minor or incompetent;

(2) the term "general aviation accident" means any accident which arises out of the operation of any general aviation aircraft and which results in harm;

(3) the term "general aviation aircraft" means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which is not, at the time of the accident, engaged in scheduled passenger carrying operations as defined in regulations issued under this Act;

(4) the term "general aviation manufacturer" means—

(A) the builder or manufacturer of the airframe of a general aviation aircraft;

(B) the manufacturer of the engine of a general aviation aircraft; and

(C) the manufacturer of any system, component, subassembly, or other part of a general aviation aircraft;

(5) the term "harm" means—

(A) property damage or bodily injury sustained by a person,

(B) death resulting from such bodily injury,

(C) pain and suffering which is caused by such bodily injury, and

(D) emotional harm (including bereavement and loss of affection, care, or society) which is caused by such bodily injury;

(6) the term "product" means a general aviation aircraft and any system, component, subassembly, or other part of a general aviation aircraft; and

(7) the term "property damage" means physical injury to tangible property, including loss of use of tangible property.

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